IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 13TH DECEMBER 2007 / 22ND AGRAHAYANA 1929

Bail Appl..No. 7688 of 2007()

CRIME NO.1141/07 OF TIRUR POLICE STATION
....

PETITIONER/ACCUSED

CHEMMALA BAVA @ NAZEER, 25 YEARS,
CHEMMALA HOUSE, VETTAM PALLIPPURAM,
PERUNTHALLOOR, TIRUR TALUK, MALAPPURAM.

BY ADV. SRI.C.V.MANUVILSAN
SRI.P.K.KHALEEMUDHEEN
SRI.P.C.ANIL KUMAR
SRI.DARSAN SOMANATH

RESPONDENTS: COMPLAINANT

STATE OF KERALA,
REPRESENTED BY S.I. OF POLICE, TIRUR POLICE STATION, THROUGH PUBLIC PROSECUTOR,
HIGH COURT OF KERALA.

BY PUBLIC PROSECUTOR SRI.S.U.NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 13/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. No. 7688 OF 2007

Dated this the 13th day of December, 2007

ORDER

Application for anticipatory bail. The petitioner is the 1st accused. He faces allegation in a crime registered, inter alia, under Sec.353 of the IPC. Two of the co-accused – accused Nos.2 and 4, had come to this Court with a petition for anticipatory bail and by order dated 28/10/07 in B.A.No.7153/07, their application for anticipatory bail was dismissed by this Court.

2. I have adverted to the facts in detail in the said order. This order must be read in continuation of the said order. I am hence not adverting to the facts in any greater detail in this order.

3. The learned counsel for the petitioner submits that the petitioner stands on a different footing than the said

accused 2 and 4. The petitioner may, in these circumstances, be granted anticipatory bail, it is submitted.

4. The crux of the allegations is that river sand was being unloaded from a lorry of which the petitioner was the driver. The petitioner was allegedly intercepted by the de facto complainant – a revenue official. Ignoring the objections of the de facto complainant, the lorry was taken away. The miscreants assaulted the de facto complainant and got released the petitioner herein. I am of opinion that there is no worthwhile distinction between the complicity of the petitioner herein and the other accused as to justify the prayer for anticipatory bail of the petitioner herein. The petitioner must also, I am satisfied, resort to the normal and ordinary course of appearing before the Investigating Officer or the learned Magistrate having jurisdiction and then seek regular bail in the usual course.

5. In the result, this bail application is dismissed; but with the observation that if the petitioner surrenders before the Investigating Officer or the learned Magistrate and seeks bail,

after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge